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Fifty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1529th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 25 July 1996, at 3 p.m.

Chairman: Mr. BHAGWATI

later: Mr. AGUILAR URBINA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1529/Add.1.

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GE.96-17469 (E)

The meeting was called to order at 3.15 p.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 8) (continued)

1. Mrs. CHANET (Rapporteur) introduced the draft annual report, which had been prepared according to the usual procedure. The ellipses in the text would, of course, be appropriately filled in by the Secretariat at a later date. She also drew attention to the existence of a corrigendum (CCPR/C/57/CRP.1/Adds./Corrigendum), which contained a number of amendments that she would introduce when the relevant paragraphs were considered.

Chapter 1 (CCPR/C/57/CRP.1; CCPR/C/57/CRP.1/Adds./Corrigendum)

Paragraph 1

2. Mrs. CHANET (Rapporteur) said that, to date, 134 States had become parties to the Covenant and 89 to the Optional Protocol. Furthermore, in order to avoid confusion, the words "at the same date" in the last sentence would be replaced by the correct date.

3. Paragraph 1 was adopted on that understanding.

Paragraphs 2-7

4. Paragraphs 2-7 were adopted.

Paragraph 8

5. Mr. KRETZMER said that a reference to the fifty-seventh session of the Committee should be added.

6. Paragraph 8, as amended, was adopted.

Paragraphs 9-11

7. Paragraphs 9-11 were adopted.

Paragraph 12

8. Mrs. CHANET (Rapporteur) drew attention to the proposed amendment, contained in document CCPR/C/57/CRP.1/Adds./Corrigendum, to be added after the second sentence.

9. The new wording from the corrigendum was adopted.

10. Mr. ANDO suggested that the United Nations Educational, Scientific and Cultural Organization (UNESCO) should be mentioned in the second sentence.

11. Mr. KLEIN drew attention to the fact that the wording of the second sentence could give the impression that the Office of the United Nations High Commissioner for Refugees was a specialized agency. The sentence ought to be reworded in order to remove any ambiguity.

12. Mrs. CHANET (Rapporteur) suggested that, in order to take account of the suggestions made by Mr. Ando and Mr. Klein, the sentence should state that the Committee had "systematically held discussions with representatives of the specialized agencies and subsidiary bodies" and UNESCO should be mentioned.

13. Paragraph 12, as amended, was adopted.

Paragraphs 13 and 14

14. Paragraphs 13 and 14 were adopted.

Paragraph 15

15. Mrs. CHANET (Rapporteur) read out the two new paragraphs (15.1 and 15.2) that appeared in document CCPR/C/57/CRP.1/Adds./Corrigendum and should be inserted between paragraphs 14 and 16 of document CCPR/C/57/CRP.1.

16. The amendment from the corrigendum was adopted.

17. Paragraph 15, as amended, was adopted.

Paragraphs 16 and 17

18. Paragraphs 16 and 17 were adopted.

Paragraphs 18 and 19

19. Mrs. CHANET (Rapporteur) noted that a new title was proposed for section I (see document CCPR/C/57/CRP.1/Adds./Corrigendum) and read out the two new paragraphs to be inserted before the current paragraph 18 of document CCPR/C/57/CRP.1.

20. The amendments from the corrigendum were adopted.

21. Mr. ANDO suggested that the wording of the current paragraph 18 should be expanded in order to give a better picture of the situation. In particular, the Committee might express the hope that the Yearbook volumes would be published regularly in the future. It might also recommend the exploration of all possible ways of catching up on the backlog and eliminating the delay in issuing the French version.

22. Mr. POCAR said he supported Mr. Ando's suggestion. He also noted that the summary records of the Committee's forty-ninth session had not yet been prepared. It was very important to note that fact in the annual report. United Nations Conference Services had promised to have the summary records in question prepared on the basis of the tape recordings, but the Committee had recently been informed that, in view of the current situation of the Organization, those summary records could not be prepared, thus holding up

publication of the 1993/1994 volume of the Yearbook. The issue was all the more important since failure to issue one volume of the Yearbook would certainly hinder the Committee in its future activities. In his opinion, the Committee should not accept the reasons put forward by Conference Services for not honouring its commitments. The necessary financial resources should be made available so that the summary records that had not been prepared at the proper time could be issued, and the Committee should make a firm statement to that effect in its annual report and communicate its concern to the General Assembly.

23. Ms. EVATT noted that the representative of the relevant financial services had recently informed the Committee that the preparation of the summary records of the forty-ninth session was not a high priority, a fact which did not augur well for follow-up on the matter. However, the 1993/94 volume of the Committee Yearbook - except, of course, the part concerning the forty-ninth session - was, apparently, almost ready. Rather than waiting indefinitely, the Committee could publish that volume, and the summary records of the forty-ninth session could then be issued in a separate document to be published at a later date. The Committee should, of course, make clear its dissatisfaction with that situation. In any case, the Committee had caught up on yet another year of the backlog in publication of the Yearbook, and that encouraging fact should be given greater emphasis.

24. Mrs. CHANET (Rapporteur), in reply to the concern expressed by Mr. Ando, said that the proposed paragraph 18 was relatively succinct because she had wished to allow the Committee to decide what should be done about a situation which, unfortunately, continued to exist. Moreover, at the time when she had drafted paragraph 18, the Committee had not yet met with the financial services representative.

25. She suggested that Ms. Evatt's idea should be followed and that it should be stated that the Committee was pleased to have caught up on one year of its backlog, but that it deeply regretted the fact that, despite the commitment made by Conference Services, the summary records of the forty-ninth session had not been prepared.

26. Mr. POCAR said he did not think the Committee should abandon its attempts to obtain those summary records. If the 1993/94 volume of the Yearbook appeared without them, as Ms. Evatt had suggested, it was clear that they would not be prepared subsequently. He therefore proposed that the 1993/94 volume should not be published until the summary records of the forty-ninth session had been prepared and, in the meantime, that the publication of the other volumes should continue.

27. It was so decided.

28. Paragraphs 18 and 19, as orally amended by Mrs. Chanet and Mr. Pocar, were adopted.

Paragraph 20

29. Paragraph 20 was adopted.

30. Chapter I (CCPR/C/57/CRP.1), as orally amended and taking into account the amendments from document CCPR/C/57/CRP.1/Adds./Corrigendum, was adopted.

Chapter II (CCPR/C/57/CRP.1/Add.1; CCPR/C/57/CRP.1/Adds./Corrigendum)

Paragraph 1

31. Paragraph 1 was adopted.

Paragraph 2

32. Mr. ANDO said it would be better to speak of an "effective and constructive dialogue".

33. Paragraph 2, as amended, was adopted.

Paragraph 3

34. Mrs. CHANET (Rapporteur) drew attention to the revised text of paragraph 3 that appeared in document CCPR/C/57/CRP.1/Adds./Corrigendum (p. 2), which reflected the current situation with regard to the Committee's methods of work.

35. Lord COLVILLE said it had been his understanding that the method described in the last sentence of paragraph 3 (revised) constituted the normal procedure but that exceptions could be made, as, for example, had been the case with the consideration of the report of Peru during the current session. He therefore suggested adding the adverb "normally" to that sentence.

36. Mr. POCAR said he approved of that idea and suggested that the first sentence of paragraph 3 should state that "the most convenient" rather than "the only" way to establish a fruitful dialogue with States parties was to harmonize the procedures followed.

37. Mrs. CHANET (Rapporteur) agreed to the two amendments.

38. Paragraph 3, reproduced in document CCPR/C/57/CRP.1/Adds./Corrigendum, together with the two oral amendments, was adopted.

Paragraphs 4 and 5

39. Paragraphs 4 and 5 were adopted.

Paragraph 6

40. Mrs. CHANET (Rapporteur) said that, in the third sentence, the number of States that were late in submitting reports would be left blank pending finalization of the report. Consequently, if some reports were submitted in New York during the period between the Committee's adoption of the draft report and the preparation of the final version, to be placed before the General Assembly, the States parties in question would be considered as having submitted their reports.

41. Mr. KLEIN said he found the second sentence unfortunate and proposed the following wording in the English version: "It stressed that States parties should, as a rule, not be treated differently". The third sentence showed that States parties were, in fact, treated differently.

42. Mrs. CHANET (Rapporteur) said she thought the problem lay with the English translation of that sentence; the French original was correctly worded. There must not be any discrimination in the way in which States parties were treated but they could, in some cases, be treated differently. She suggested reproducing the exact wording of the document on the methods of work of the Committee, making sure that it was satisfactory from the linguistic point of view.

43. Paragraph 6 was adopted on the understanding that the second sentence would be reworded in the light of the document on the methods of work of the Committee.

Paragraph 7

44. Paragraph 7 was adopted.

Paragraph 8

45. Mr. POCAR suggested that the end of the first sentence should be amended to read: "... of adopting a decision to ask for a special report".

46. Mrs. CHANET (Rapporteur) agreed to that amendment.

47. Paragraph 8, as amended, was adopted.

Paragraph 9

48. Paragraph 9 was adopted.

Paragraph 10

49. Ms. EVATT explained that she had drafted a report on the activities of the Committee on the Elimination of Discrimination against Women; that document would be distributed in the near future, and she would like that fact to be indicated at the end of the paragraph, where her name was merely mentioned in brackets.

50. Lord COLVILLE asked what the other members of the Committee were expected to do with regard to cooperation with other treaty-monitoring bodies: what documentation would they receive, from what sources and for what purpose?

51. Mr. ANDO said that the same questions occurred to him.

52. Mrs. CHANET (Rapporteur) said that, depending on what was decided, paragraph 10 might be expanded before the end of the session. For example,

if the Committee appointed other members to coordinate activities with other treaty-monitoring bodies, mention of the fact would be added.

53. Paragraph 10 was adopted on the understanding that any necessary additional wording would be inserted.

54. Chapter II (CCPR/C/57/CRP.1/Add.1), as amended, and including the paragraph from document CCPR/C/57/CRP.2/Adds./Corrigendum, also amended, was adopted.

Chapter III (CCPR/C/57/CRP.1/Add.2)

55. Mrs. CHANET (Rapporteur) said that no corrections had been made to chapter III.

Paragraphs 1-3

56. Paragraphs 1-3 were adopted.

Paragraph 4

57. Mr. POCAR, noting that the text mentioned "a significant increase [in the number of reports received by the Committee] by comparison with previous years", asked what the statistics for previous years had been.

58. Mr. TISTOUNET (Secretary of the Committee) said that, as of the end of the current 1996 session, 27 were still to be considered; there had been 15 as of June 1995 and 10 as of June 1994. Thus, the number of reports received had almost tripled between 1994 and 1996. The Committee had examined 16 reports in 1995 and somewhat fewer (14) in 1996.

59. Mr. POCAR noted that 5 of the 14 reports considered during the past year had been initial reports, which meant that the Committee had considered 9 periodic reports. Since there were 134 States parties to the Covenant, the Committee should have examined a number of reports equivalent to one fifth of the number of States parties, in other words, at least 20 rather than 9. He therefore found it overly optimistic to speak of a "significant increase".

60. Mrs. CHANET (Rapporteur) said she thought it would, in fact, be better to give only the statistics in the paragraph and to delete the words "representing a significant increase by comparison with previous years".

61. Paragraph 4, amended by deletion of the last part of the first sentence, was adopted.

Paragraph 5

62. Mr. PRADO VALLEJO said that, in his opinion, the first sentence should state, not that the reports submitted by States parties increasingly reproduced legislative texts "in extenso", but rather that they reproduced "long passages" of those texts in the Spanish version: "en gran parte". In

the third sentence, it would be better to say that States should include only necessary "and relevant" information in their reports (procedents or conveniente).

63. Ms. EVATT said she had the impression that the Committee was making contradictory recommendations to States parties in the paragraph in question. The Committee did, in fact, wish to receive legislative texts if they were relevant. However, in the case of Peru, many of the laws mentioned could have appeared in an annex and simply summarized in the body of the report. The Committee might ask States parties to include necessary and relevant information in their reports and to reproduce the texts of laws in an annex.

64. Mr. POCAR said he agreed with Ms. Evatt.

65. Mr. KLEIN said he thought there was a contradiction between stating that reports were becoming very bulky and criticizing the lack of detail regarding the practical application of the law.

66. Ms. MEDINA QUIROGA noted that the third sentence of the Spanish version said that States should, in particular, avoid "reproducing" the law rather than "paraphrasing" it, as in the French and English versions.

67. Mr. BÁN said he wondered whether, generally speaking, that paragraph was properly placed under the heading "Reports submitted by States parties under article 40 of the Covenant during the period under review", since its content had more to do with methods of work. It might be better to include it in chapter II (CCPR/C/57/CRP.1/Add.1).

68. Mr. BUERGENTHAL said he agreed with Mr. Bán and suggested deleting the words "which made the reports extremely bulky" at the end of the first sentence.

69. Mr. ANDO endorsed Mr. Bán's suggestion that paragraph 5 should be moved, Mr. Buergenthal's suggestion that the end of the first sentence should be deleted, and Ms. Evatt's suggestion. It would suffice to say that the Committee considered that States should include only necessary and relevant information in their reports and place the texts of laws in annexes; nothing more need be said.

70. Mr. LALLAH thought the third sentence should end after the words "its practical application" and should be reworded to read: "... States should include only necessary information in their reports, and in particular avoid simply paraphrasing the law instead of concentrating on its practical application".

71. Mr. MAVROMMATIS said he thought the first sentence should end with the words "legislative texts in extenso", and be followed immediately by the last sentence in its amended form, without any mention being made of the guidelines.

72. Mrs. CHANET (Rapporteur) said the paragraph in question was identical to the one that had appeared in the previous year's report, but that the criticisms that had been made were well-founded. The paragraph would be

better placed in the chapter on methods of work, and everything after the words "legislative texts in extenso" could be deleted from the first sentence. The Committee might need to know about a State party's laws, even though they were bulky, if they were relevant and constituted necessary information. Moreover, the Committee obviously preferred to have a description of practical applications. All of that could be stated in three sentences and placed in chapter II.

73. Paragraph 5 was adopted subject to those amendments and on the understanding that it would be placed in chapter III on methods of work.

Paragraph 6

74. Paragraph 6 was adopted.

Paragraph 7

75. Ms. EVATT expressed surprise at the wording used to introduce the Human Rights Committee's special decision concerning the report of Nigeria and wondered if it would not be better to say that, in view of the Committee's serious concerns regarding the way in which the Covenant was implemented in Nigeria, the Chairman had decided to transmit the special decision, rather than "In view of the particular difficulties encountered by Nigeria in implementing the Covenant ...".

76. Mrs. CHANET (Rapporteur) said the sentence would be amended as suggested by Ms. Evatt.

77. Paragraph 7, as amended, was adopted.

Paragraph 8

78. Paragraph 8 was adopted.

79. Chapter III (CCPR/C/57/CRP.1/Add.2), as amended, was adopted.

Chapter IV (CCPR/C/57/CRP.1/Add.3)

Paragraphs 1 and 2 and table

80. Mrs. CHANET, in reply to a question by Mr. Ando, said that the paragraph number left blank and in brackets at the end of paragraph 1 would be added when the paragraph numbering of the report was finalized.

81. Mr. POCAR said he thought that the States that had not responded to the Committee's request to submit a special report (Angola and Rwanda, listed in the table) should be mentioned at the end of paragraph 2.

82. Mr. KLEIN asked what criteria were used in sending reminders to non-complying States parties since he had noted, in reading the list, that States parties whose reports were the same number of years overdue had not always received the same number of reminders, for example, in the case of Guyana and the Democratic People's Republic of Korea.

83. Mr. TISTOUNET (Secretary of the Committee) explained that sometimes a State party sent a note verbale announcing that its next report would reach the Secretariat within, for example, the next six months. In such cases, the Secretariat did not send a reminder during the year in question and would do so only the following year, if nothing had been received. That explained the differences noted by Mr. Klein.

84. Mr. BUERGENTHAL pointed out that the information included in the table could not be properly interpreted without reading paragraph 2. Perhaps a colon should be placed at the end of paragraph 2 in order to make it clear that the text of the paragraph explained the meaning of the table. Another solution would be to place a heading above the table.

85. Mr.BÁN made a suggestion for the future. Both in New York and in Geneva, members of the Committee were in the habit of meeting individually with the Ambassadors of some States parties. During those interviews, the Ambassadors sometimes made specific promises, which should be recorded in the Committee's report; otherwise, they would disappear without trace.

86. Mrs. CHANET (Rapporteur) said that that question should be discussed and decided on within the framework of the working methods of the Committee.

87. The CHAIRMAN invited the Committee to adopt document CCPR/C/57/CRP.1/Add.3 as a whole.

88. Chapter IV (CCPR/C/57/CRP.1/Add.3), as orally amended, was adopted.

89. The CHAIRMAN said that all the Committee's concluding observations on the reports submitted by States parties (see CCPR/C/57/CRP.1/Add.4) had been adopted, and there was no need for further discussion. The same was true of the two sections of the report devoted to communications (see CCPR/C/57/CRP.1/Add.6/Part I and Part II and CCPR/C/57/CRP.1/Add.7/Part I and Part II). He therefore invited the Committee to take a decision on chapter VI on general comments of the Committee (CCPR/C/57/CRP.1/Add.5).

Chapter VI (CCPR/C/57/CRP.1/Add.5)

90. Document CCPR/C/57/CRP.1/Add.5 was adopted.

Annexes I and II (CCPR/C/57/CRP.2)

91. Mrs. CHANET (Rapporteur) drew attention to the document containing all the changes to be made to the draft report (CCPR/C/57/CRP.1/Adds./Corrigendum); the last section of the corrigendum dealt with annex I, which appeared in document CCPR/C/57/CRP.2. A new section E, entitled: "E. Implementation of the Covenant in the new States that constituted parts of former States parties to the Covenant", which would deal with the question of State succession and recall the Committee's jurisprudence in the case of three countries (Kazakstan, Tajikistan and Turkmenistan), should be added at the end of annex I.

92. Ms. EVATT said she thought it would be more logical to insert that section, not at the end of annex I, but at the end of the list of States that had ratified the Covenant, in other words, between sections A and B.

93. Mr. POCAR agreed that a reference to the States in question should be added to the list of States that had ratified the Covenant, although it could also be added to the list of States that had ratified the Optional Protocol, since the three countries in question were successors to the former Union of Soviet Socialist Republics, which had ratified the Optional Protocol. The question of whether the Optional Protocol applied to those States depended on the date of their independence. It would, therefore, be preferable to place the information provided in the proposed section E in a footnote rather than a new paragraph.

94. The question was a complex one since, rather than making a declaration of succession, some States had made a declaration of accession, but the Committee considered such declarations as declarations of succession. Consequently, the date of entry into force indicated in the list was incorrect in the case of certain countries. For example, Azerbaijan had declared that it had not succeeded to the former Soviet Union but had acceded to the Covenant on 13 August 1992. He himself had noted, when the representative of Azerbaijan had presented that country's initial report, that the date of entry into force was not 13 November 1992 (three months after the date of accession) since Azerbaijan had in fact succeeded to the Soviet Union; the date of entry into force was, therefore, the date on which that State had gained its independence, a fact which the delegation had not disputed.

95. There were two groups of new States. The first was composed of those that had emerged from the former Yugoslavia. The situation in their case was clear since, with the exception of the Federal Republic of Yugoslavia (Serbia and Montenegro), all of them had made a declaration of succession mentioning that the Covenant had been in force at the date of their independence and specifying that date. On the other hand, the situation of the States that had emerged from the former Soviet Union was more complex, since they had made a declaration of accession and the Legal Counsel in New York had ruled that that accession was a genuine one. That was why, in some official documents, the date of entry into force of the Covenant was three months after the date of the declaration of accession. The Committee, for its part, had always taken the view that those declarations of accession should be considered as acts of succession and that States parties were bound as from the day of their independence, a point which had a certain importance in international law. Therefore, the Committee must either fail to record the date of entry into force and include a footnote or - perhaps the best solution - retain the dates included in the list and add a footnote clearly stating that, in the Committee's opinion, the entry into force of the Covenant corresponded to the date of independence. The same was true of the list of States that had ratified the Optional Protocol.

96. After a discussion in which Ms. MEDINA QUIROGA, Mr. KLEIN, Lord COLVILLE Mr. ANDO, Mr. POCAR, Mr. PRADO VALLEJO and Mrs. CHANET (Rapporteur) took part, it was decided to follow Mr. Pocar's suggestion.

97. Annexes I and II (CCPR/C/57/CRP.2), as amended, were adopted.

Annexes III and IV (CCPR/C/57/CRP.2/Add.1)

98. Mrs. CHANET (Rapporteur) drew attention to the fact that, for the first time, all the States concerned were listed (annex III).

99. Ms. MEDINA QUIROGA asked whether, if the three States (Kazakstan, Tajikistan and Turkmenistan) that were now considered parties to the Covenant had already been asked to submit reports, they should not be added to the list.

100. Mrs. CHANET (Rapporteur) said that that would be done.

101. Annexes III and IV (CCPR/C/57/CRP.2/Add.1), as amended, were adopted.

Annex V (CCPR/C/57/CRP.2/Add.2)

102. Mrs. CHANET (Rapporteur) said that annex V reproduced the full text of the Committee's general comment on article 25 of the Covenant, which had been adopted in several stages. The members were invited to read it in their own language and, if they discovered any errors, to so inform her.

103. Annex V (CCPR/C/57/CRP.2/Add.2) was adopted.

CCPR/C/57/CRP.2/Add.3, Add.5 and Add.6

104. Mrs. CHANET (Rapporteur) said that the three documents (Observations of States parties, List of delegations and Lists of documents) contained factual information, some of which would be updated as needed.

105. Documents CCPR/C/57/CRP.2/Add.3, Add.5 and Add.6 were adopted.

The meeting was suspended at 5.30 p.m. and resumed at 5.40 p.m.

106. Mr. Aguilar Urbina took the Chair.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

107. The CHAIRMAN informed the members of the Committee that he had met with representatives of the Administration, whom he had informed of the Committee's dissatisfaction with the quality of the facilities and equipment with which it was provided during its meetings in Geneva. He had been assured that, beginning with the Committee's next session in October, every effort would be made to improve the Committee's physical working conditions as far as possible.

The public part of the meeting rose at 5.45 p.m.